شرط الصفة في أطراف الدعوى القضائية وتطبيقاتها المعاصرة

قرار لجنة المناقشة

نوقشت هذه الرسالة:

شرط الصفة في أطراف الدعوى القضائية وتطبيقاتها المعاصرة و أجيزت يوم الثلاثاء في الثامن من ربيع الأول لعام ١٤٢٥ للهجرة المباركة، الموافق (٢٠٠٥/٥/١٧م).

أعضاء لجنة المناقشة:

التوقيع

الدكتور محمد خالد منصور أستاذ الفقه المقارن في الجامعة الأردنية مشرفاً ورئيساً

الدكتور إسماعيل البريشي

أستاذ مساعد في الفقه المقارن في الجامعة الأردنية (عضواً)

الدكتور محمد السكر

أستاذ مساعد في الفقه المقارن في الجامعة الأردنية (عضواً)

الدكتور أنس أبو عطا

أستاذ مساعد في الفقه المقارن في جامعة آل البيت (عضواً)

تعتمد كلية الدراسات العليا هذه النسخة من الرسالية التوقيع من الرسالية

الإهداء

- إلى المبعوث رحمة للعالمين سيدي رسول الله صلى الله عليه وسلم.
 - إلى كل من يتوق لأن يرى شرعة الله هي الحاكمة.
 - إلى الذين أحيوا روحي؛ مشايخي...
 - إلى من جعل الله برّهم طريقاً إلى الجنان إلى والدي العزيزين.
 - إلى إخوتي وأخواتي الذين لم يدخروا جهداً في مدّ يد العون الإنهاء در استي.
 - إلى من أنكرت ذاتها في سبيل إسعادي؛ زوجتي...
- إلى قرتي العين، وفلذتي الكبد، إلى اللذين منحاني أثمن وأغلي ما عندهم، طفولتهم البريئة، إلى اللذين منحاني ساعات لهوهم ومرحهم ولعبهم من أجل إتمام هذا العمل، إلى ولدي الحبيبين: أحمد وعبد الله.
 - إلى كل من ساعدني في إخراج هذه الرسالة.

الباحث

- . القاضي الدكتور زياد صبحي ذياب عضو محكمة الاستئناف الشرعية.
- . الدكتور علي المهداوي ، أستاذ القانون المدني في جامعة الزرقاء الأهلية.
 - . شقيقي ربيع العايدي.
 - . الأخ الفاضل عماد الزبن.
 - . الأخ الفاضل عبد الناصر الحوامدة.

جزى الله الجميع كل خير، وأعانني على رد معروفهم، إنه سميع مجيب

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فهرست الموضوعات

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شرط الصفة في أطراف الدعوى القضائية وتطبيقاتها المعاصرة

محمد صبحي العايدي

الدكتور محمد خالد منصور

الملخص:

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The Condition of Capacity in the Parties To the Judicial Lawsuit and its Contemporary Applications

By

Mohammad Subhi Hasan AL Ayedy

Supervisor Dr. Moh'd Khaled Mansour

Abstract

In the preparatory chapter of this paper I have discussed the definition of judicial lawsuit its parts and the relation of such parts with the judicial capacity condition which is the subject matter of this thesis.

I then discussed in the first chapter the condition of judicial capacity one of the conditions which the parties to a judicial lawsuit should have and without which the lawsuit shall be invalid. The researcher defined the judicial capacity as:

"The sign needed for the person entitled to the right and rectifying the lawsuit".

I then dealt with its legitimacy and the effects resulting from the lack of judicial capacity which are refutation of rejection and the consequent lapse of litigation. I then divided it with the assumption of right and explained its relation with the other conditions of the lawsuit which are the conditions of capacity and legal capacity.

The second chapter discussed the legal capacity of the principal plaintiff and types of possession established to the person entitled to the right with an explanation of the real possession considered in litigation contingent possession and disagreement of jurists in its assumption with some applications in that regard.

Thereafter I tackled the judicial capacity in the agent and the agency concept legitimacy parts and types and capacity of guardian trustee and agent and the rights and obligations of each agent based on the conduct of each one of them within the limits of the powers granted to them whether a power granted by the legislator or the person entitled to the right. I considered the issues in which an agent exists legally and not intentionally though he shall have judicial capacity.

Chapter three discussed the judicial capacity of the juristic person through jurisprudence and law with some applications where choose applications to contemporary companies followed by endowment jurisdiction.

I thereafter indicated to the dire need for a detailed law earmarked to the rules of endowment to be deduced from the words of Imams since the current civil law falls short of this.

The last chapter four dealt with the judicial capacity of the defendant types of different lawsuit such as the lawsuits involving immovable debt and deed ...etc. I have shown the control that determines who is a litigant in the filed lawsuit and who is not touching in the end on the litigant in certain lawsuits as perceived by lawmakers.